

JEFFREY S. BUCHOLTZ
Acting Assistant Attorney General
SCOTT N. SCHOOLS
United States Attorney
SHEILA M. LIEBER
Assistant Branch Director
MICHAEL Q. HYDE
Trial Attorney
Civil Division, Federal Programs Branch
United States Department of Justice
20 Massachusetts Ave., N.W., Room 7132
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 514-2205
Facsimile: (202) 616-8470
Email: michael.hyde@usdoj.gov

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SONYA RENEE, et al.,

Plaintiffs,

v.

MARGARET SPELLINGS, et al.,

Defendants.

Civil Action No. 3:07cv4299

**DEFENDANTS' ANSWER TO THE
FIRST AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 8, defendants United States Department of Education and Secretary of Education Margaret Spellings (collectively "Defendants") by and through their undersigned counsel, answer plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief [docket no. 30] ("Complaint") as follows:

FIRST DEFENSE

The Court lacks jurisdiction over one or more of plaintiffs' claims.

SECOND DEFENSE

Plaintiffs fail to state a claim upon which relief can be granted.

THIRD DEFENSE

Plaintiffs lack standing to assert one or more of their claims.

FOURTH DEFENSE

With respect to the numbered paragraphs of plaintiffs' Complaint, defendants answer as follows:

1. The allegations of the first sentence of paragraph 1 consist of plaintiffs' characterizations of their case to which no answer is required. Defendants deny the remaining allegations in paragraph 1.

2. The allegations of the first three sentences in paragraph 2 consist of plaintiffs' opinions, characterizations of their case, characterizations of statutes or regulations, and conclusions of law to which no answer is required. To the extent an answer may be required, deny, except to admit that the defendants consider the No Child Left Behind Act ("NCLB") to be a pivotal element of federal education policy for elementary and secondary schools. The allegations in the last sentence consist of plaintiffs' characterization of a document signed by the Secretary of Education on or about October 21, 2005. No response is necessary because the document speaks for itself. To the extent an answer may be required, deny, except to admit that the Secretary issued the document attached to the Complaint at Exhibit 1.

3. The allegations of paragraph 3 consist of plaintiffs' characterizations of a statute and conclusions of law to which no answer is required.

4. The allegations of paragraph 4 consist of characterizations of the NCLB and conclusions of law to which no answer is required.

5. Deny.

6. The allegations of first sentence of paragraph 6 consist of characterizations of the NCLB and conclusions of law to which no answer is required. Defendants deny the remaining allegations in paragraph 6.

7. Deny.

8. To the extent that plaintiffs allege that defendants have acted or have permitted the labeling of persons as highly qualified teachers in a manner not authorized by law, deny. To the extent the allegations in paragraph 8 contain allegations about the conduct of the State of California, it is unclear what plaintiffs mean by the term "intern" and defendants lack

1 knowledge or information sufficient to form a belief as to the truth of the allegations. The
2 remainder of the allegations in paragraph 8 consist of conclusions of law to which no answer is
3 required.

4 9. Defendants lack knowledge or information sufficient to form a belief as to the
5 truth of the allegations in the first sentence of paragraph 9. Defendants deny the remaining
6 allegations in paragraph 9.

7 10. Deny.

8 11. The allegations contained in paragraph 11 consist of conclusions of law
9 pertaining to the jurisdictional basis for this action for which no response is required.

10 12. The allegations contained in paragraph 12 consist of conclusions of law
11 pertaining to the jurisdictional basis for this action for which no response is required.

12 13. The allegations contained in paragraph 13 consist of conclusions of law
13 pertaining to the jurisdictional basis for this action for which no response is required.

14 14. The allegations contained in paragraph 14 consist of conclusions of law
15 pertaining to the proper venue for this action for which no response is required.

16 15. To the extent the allegations in paragraph 15 contain factual allegations
17 regarding the places of residence or business for plaintiffs or their members, defendants lack
18 knowledge or information sufficient to form a belief as to the truth of the allegations.
19 Defendants deny any remaining allegations in paragraph 15.

20 16. The allegations contained in paragraph 16 consist of conclusions of law
21 pertaining to the proper venue for this action for which no response is required.

22 17. Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 17.

24 18. Deny.

25 19. Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of the allegations contained in paragraph 19.

27 20. Deny.

28 21. Defendants lack knowledge or information sufficient to form a belief as to the

1 truth of the allegations contained in paragraph 21.

2 22. Deny.

3 23. Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 23.

5 24. Defendants lack knowledge or information sufficient to form a belief as to the
6 truth of the allegations contained in paragraph 24.

7 25. Defendants lack knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in paragraph 25.

9 26. Deny.

10 27. Defendants lack knowledge or information sufficient to form a belief as to the
11 truth of the allegations contained in paragraph 27.

12 28. Deny.

13 29. Defendants lack knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 29.

15 30. Deny.

16 31. Defendants lack knowledge or information sufficient to form a belief as to the
17 truth of the allegations contained in paragraph 31.

18 32. Deny.

19 33. Defendants lack knowledge or information sufficient to form a belief as to the
20 truth of the allegations contained in paragraph 33.

21 34. Deny.

22 35. Defendants lack knowledge or information sufficient to form a belief as to the
23 truth of the allegations contained in paragraph 35.

24 36. Deny.

25 37. Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of the allegations contained in paragraph 37.

27 38. The first sentence of paragraph 38 contains a characterization of the action to
28 which no response is required. Defendants lack knowledge or information sufficient to form a

1 belief as to the truth of the allegations regarding Sayra Reyes. Defendants deny the remaining
2 allegations contained in paragraph 38.

3 39. Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 39.

5 40. The first sentence of paragraph 40 contains a characterization of the action to
6 which no response is required. Defendants deny the remaining allegations contained in
7 paragraph 40.

8 41. Defendants admit the allegations in the first and second sentences of paragraph
9 41, with the exception of plaintiffs' allegations regarding the Secretary's responsibilities
10 involving 20 U.S.C. §§ 6571 and 6578, which are conclusions of law for which no answer is
11 required. The third sentence of paragraph 41 consists of plaintiffs' characterization of the
12 action to which no answer is required.

13 42. Defendants admit the allegations in paragraph 42, with the exception of
14 plaintiffs' allegations regarding the Department of Education's responsibilities involving 20
15 U.S.C. §§ 6571 and 6578, which are conclusions of law for which no answer is required.

16 43. Defendants admit that President Bush signed into law the NCLB, Pub. L. No.
17 107-110, 115 Stat. 1425, and that before Congress are proposals to reauthorize that Act. The
18 remainder of paragraph 43 consists of conclusions of law to which no response is required.

19 44. The allegations contained in paragraph 44 consist of characterizations of the
20 NCLB and conclusions of law to which no answer is required.

21 45. The allegations contained in the first sentence of paragraph 45 consist of
22 conclusions of law to which no answer is required. The allegations in the remainder of
23 paragraph 45 consist of plaintiffs' characterization of a document signed by the Secretary of
24 Education on or about October 21, 2005. No response is necessary because the document
25 speaks for itself.

26 46. The allegations contained in paragraph 46 consist of characterizations of the
27 NCLB to which no answer is required.

28 47. The allegations contained in paragraph 47 consist of characterizations of the

1 NCLB and conclusions of law to which no answer is required.

2 48. The allegations contained in paragraph 48 consist of characterizations of the
3 NCLB and conclusions of law to which no answer is required.

4 49. The allegations contained in paragraph 49 and its sub-paragraphs consist of
5 characterizations of the NCLB and conclusions of law to which no answer is required.

6 50. The allegations contained in paragraph 50 and its sub-paragraphs consist of
7 characterizations of the NCLB and conclusions of law to which no answer is required.

8 51. Defendants admit that no State reported that by the end of the 2005-2006 school
9 year all teachers of core academic subjects were "highly qualified." Defendants deny that the
10 documents cited imposed any deadline regarding the use of highly qualified teachers in core
11 classes by the end of the 2006-2007 school year. The remainder of the allegations in paragraph
12 51 consist of plaintiffs' characterization of documents signed by the Secretary of Education on
13 July 23, 2007, and October 21, 2005. No response is necessary because the documents speak
14 for themselves.

15 52. The allegations in paragraph 52 consist of plaintiffs' characterization of a
16 document signed by the Secretary of Education on October 21, 2005. No response is necessary
17 because the document speaks for itself.

18 53. The allegations in paragraph 53 consist of plaintiffs' characterization of a
19 document released by the Department of Education. No response is necessary because the
20 document speaks for itself. To the extent an answer may be required, deny, except to admit that
21 the Department issued the document attached to the Amended Complaint at Exhibit 5.

22 54. Defendants admit that the Department issued the document attached to the
23 Amended Complaint at Exhibit 10. Defendants deny that the document cited imposed any
24 deadline regarding the use of highly qualified teachers in core classes by the end of the 2006-
25 2007 school year, and thus deny that any extension of a deadline was granted. Defendants
26 admit that it is unclear if any State as yet has achieved a rate of 100 percent of teachers of core
27 academic subjects being "highly qualified." The remainder of the allegations in paragraph 54
28 consist of plaintiffs' characterization of a document signed by the Secretary of Education on

1 July 23, 2007. No response is necessary because the document speaks for itself.

2 55. To the extent the allegations in paragraph 55 consist of plaintiffs'
3 characterization of document signed by the Secretary of Education on July 23, 2007, no
4 response is necessary because the document speaks for itself. It is unclear what plaintiffs mean
5 by the term "sanction"; defendants state that to date, they have not imposed any financial
6 sanctions on any State for failure to report all teachers as highly qualified but have required
7 some States to provide additional information as a condition of receiving grant funds. The
8 remaining allegations in paragraph 55 consist of characterizations and conclusions of law to
9 which no answer is required.

10 56. Defendants admit that they do not yet have State data for the 2006-2007 school
11 year on the highly-qualified teacher goal. The remaining allegations in paragraph 56 consist of
12 plaintiffs' opinions, characterizations of a letter signed by the Secretary on July 23, 2007, and
13 conclusions of law to which no answer is required.

14 57. Defendants admit the allegations contained in the first sentence of paragraph 57.
15 Defendants deny the allegations contained in the second sentence of paragraph 57. The
16 remaining allegations contained in paragraph 57 consist of recitations and characterizations of
17 the NCLB to which no answer is required.

18 58. The allegations contained in paragraph 58 consist of recitations and conclusions
19 of law to which no answer is required, except that defendants deny the allegations to the extent
20 they allege that defendants have acted or have permitted the labeling of persons as highly
21 qualified teachers in a manner not authorized by law.

22 59. The allegations contained in paragraph 59 consist of characterizations of a
23 statute and regulation and conclusions of law to which no answer is required.

24 60. Defendants lack knowledge or information sufficient to form a belief as to the
25 truth of the allegations contained in paragraph 60.

26 61. Deny.

27 62. The allegations in paragraph 62 consist of plaintiffs' characterization of the cited
28

1 study and its author's estimate. No response is necessary because the document speaks for
2 itself. Defendants deny the remaining allegations in paragraph 62.

3 63. Defendants lack knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in paragraph 63 and it is unclear what plaintiffs mean by the
5 term "particularly dramatic." Moreover, the allegations in paragraph 63 are based on plaintiffs'
6 characterizations of the cited references. No response is necessary because the references speak
7 for themselves.

8 64. The allegations in paragraph 64 consist of plaintiffs' characterization of the
9 document cited and the conclusions contained in that document. No response is necessary
10 because the document speaks for itself.

11 65. The allegations in paragraph 65 consist of plaintiffs' characterization of the
12 document cited. No response is necessary because the document speaks for itself.

13 66. Defendants lack knowledge or information sufficient to form a belief as to the
14 truth of the allegations contained in paragraph 66.

15 67. Defendants lack knowledge or information sufficient to form a belief as to the
16 truth of the allegations contained in paragraph 67.

17 68. Defendants lack knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained in paragraph 68.

19 69. Defendants lack knowledge or information sufficient to form a belief as to the
20 truth of the allegations contained in paragraph 69.

21 70. Defendants lack knowledge or information sufficient to form a belief as to the
22 truth of the allegations contained in paragraph 70.

23 71. Defendants lack knowledge or information sufficient to form a belief as to the
24 truth of the allegations contained in paragraph 71.

25 72. Defendants lack knowledge or information sufficient to form a belief as to the
26 truth of the allegations contained in the first sentence of paragraph 72.

27 73. Defendants lack knowledge or information sufficient to form a belief as to the
28

1 truth of the allegations contained in paragraph 73.

2 74. Defendants lack knowledge or information sufficient to form a belief as to the
3 truth of the allegations contained in the first sentence of paragraph 74.

4 75. Defendants' responses to paragraphs 1 to 74 above are incorporated herein by
5 reference, the same as though pleaded in full.

6 76. Defendants admit the allegations contained in the first sentence of paragraph 76.
7 Defendants deny the remaining allegations contained in paragraph 76.

8 77. Deny.

9 78. Defendants' responses to paragraphs 1 to 77 above are incorporated herein by
10 reference, the same as though pleaded in full.

11 79. Defendants admit that they contend the regulation is not unlawful and that it was
12 not promulgated in excess of statutory authority. Defendants lack knowledge or information
13 sufficient to form a belief as to the truth of the allegations about what plaintiffs are informed
14 and believe regarding defendants' contentions. The remaining allegations in paragraph 79
15 consist of characterizations and conclusions of law to which no answer is required.

16 80. Deny.

17 81. Deny.

18 82. Deny.

19 83. Deny.

20 84. Deny.

21 85. Deny.

22 86. Deny.

23 The balance of the Complaint constitutes plaintiffs' prayer for relief to which no
24 response is required. To the extent an answer may be required, defendants deny that plaintiffs
25 are entitled to the relief requested or to any relief whatsoever. Defendants deny all allegations
26 not otherwise admitted or denied in this Answer.

27 WHEREFORE, having fully answered, defendants request that this action be dismissed
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1 with prejudice and for judgment affirming the decisions challenged in the Complaint.

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3 Dated: December 14, 2007

Respectfully submitted,

4 JEFFREY S. BUCHOLTZ
Acting Assistant Attorney General

5 SCOTT N. SCHOOLS
6 United States Attorney

7 SHEILA M. LIEBER
Assistant Branch Director

8 /S/
9 MICHAEL Q. HYDE
Trial Attorney
10 Civil Division, Federal Programs Branch
United States Department of Justice
11 20 Massachusetts Ave., N.W., Room 7132
P.O. Box 883
12 Washington, D.C. 20044
Tel: (202) 514-2205
13 Facsimile: (202) 616-8470
Email: michael.hyde@usdoj.gov
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CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2007, a true and correct copy of the foregoing Defendants' Answer to the First Amended Complaint was served by the Court's ECF system upon the following:

John T. Affeldt
Jenny Pearlman
Tara Kini
PUBLIC ADVOCATES, INC.
131 Steuart Street, Suite 300
San Francisco, CA 94105

Patrick Thompson
Nicole E. Perroton
Elizabeth F. Stone
GOODWIN PROCTER LLP
Three Embarcadero Center, Third Floor
San Francisco, CA 94111

Jeffrey Simes
GOODWIN PROCTER LLP
599 Lexington Avenue
New York, NY 10022

David B. Cook
GOODWIN PROCTER LLP
901 New York Avenue, N.W.
Washington, D.C. 20001

Attorneys for Plaintiffs

/S/

MICHAEL Q. HYDE